

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

REYNOLDS SHIPPING USA LLC, Petitioner	§ § § §	
v.	§ § § §	Civil Action No.: _____
MINISTRY OF TRADE FOR THE REPUBLIC OF IRAQ, Respondents	§ § § §	

MOTION TO CONFIRM FOREIGN ARBITRATION AWARDS

COMES NOW, Petitioner, Reynolds Shipping USA LLC (“Petitioner”) in the above-styled action, seeking confirmation of three (3) foreign arbitration awards against Respondent, Ministry of Trade for the Republic of Iraq (“Respondent”), and entry of judgment in conformity with the arbitration awards.

Summary of Petition

This is a motion filed pursuant to the provisions of the U.N. Convention on the Recognition and Enforcement of Foreign Arbitration Awards (“New York Convention”), 9 U.S.C. §§201-208 to confirm an arbitration award made in a foreign arbitration proceeding, and to enter judgment in conformity with the arbitration awards.

Parties and Jurisdiction

1. Reynolds Shipping USA LLC is an Oklahoma corporation, with its principal place of business in McAllen, Texas.
2. Ministry of Trade for the Republic of Iraq, is a foreign governmental entity.
3. The three (3) arbitration awards (“Awards”) that are the subject of this proceeding for confirmation arose from and was rendered pursuant to a charterparty agreement.
4. This Court has jurisdiction over these proceedings under 9 U.S.C. §203.

5. Venue is proper in this District pursuant to 9 U.S.C. §204.

Facts

6. Respondent and Petitioner (collectively referred to herein as “Parties”) are bound by the terms of the Baltimore Berth Grain charterparty printed form evidenced by a fixture confirmation message dated January 24, 2007 (“Agreement”). A true and correct copy of the Agreement is attached hereto as **Exhibit A** and incorporated herein for all purposes.

7. Under the Agreement, Petitioner agreed to carry 150,000 metric tons of bagged rice from Thailand to Iraq. Petitioner performed under the Agreement. However, Respondent failed to pay Petitioner according to the terms of the Agreement.

8. Based on Respondent’s failure to pay Petitioner in full under the terms of the Agreement, Petitioner invoked arbitration in London, England (“Tribunal”).

9. Initially, Petitioner made an application to the Tribunal for an interim award regarding the balance of freight due for four shipments performed under the Agreement.

10. Subsequently, Petitioner made a further application to the Tribunal for the balance of freight due for a fifth shipment, and asked that the two applications be dealt with together.

11. On October 10, 2007 the Tribunal made its First Final Arbitration Award, a copy of which is attached hereto as **Exhibit B** and incorporated herein for all purposes, as follows:

a. The sum of \$34,900.60 for the shipment on the “Maria”, together with 7.75% interest per annum from May 17, 2007. The amount now due, including interest which has accrued through January 15, 2013 is \$53,895.34;

b. The sum of \$57,508.20 for the shipment on the “Cher”, together with 7.75% interest per annum from June 11, 2007. The amount now due, including interest which has accrued through January 15, 2013 is \$88,353.89;

c. The sum of \$128,516.00 for the shipment on the "Nancy", together with 7.75% interest per annum from June 28, 2007. The amount now due, including interest which has accrued through January 15, 2013 is \$196,733.77;

d. The sum of \$125,369.60 for the shipment on the "Tatyana" together with 7.75% interest per annum from July 13, 2007. The amount now due, including interest which has accrued through January 15, 2013 is \$ 191,304.40; and

e. The sum of £730.00 for arbitration costs, together with interest at the rate of 7.75% per annum, compounded with three monthly rests from the date of payment to the date of reimbursement.

12. On November 5, 2007, the Tribunal made its Second Final Arbitration Award, a copy of which is attached hereto as **Exhibit C** and incorporated herein for all purposes, as follows:

a. The sum of \$190,384.01 for the shipment on the "Joudi", together with 7.25 interest per annum from September 22, 2007. The amount now due, including interest which has accrued through January 15, 2013 is \$278,899.17; and

b. The sum of £1,166.00 for arbitration costs, together with interest at the rate of 7.75% per annum, compounded with three monthly rests from the date of payment to the date of reimbursement.

13. Finally, on June 14, 2010 the Tribunal made its Third Final Arbitration Award, a copy of which is attached hereto as **Exhibit D** and incorporated herein for all purposes, which addressed a claim for damages relating to a freight differential and Petitioner's request for indemnity related to same. No awards were made to Petitioner in the Third Final Arbitration Award.

14. The Third Arbitration Award addressed a large counterclaim that affected all of the Agreements, including the First Arbitration Award and the Second Arbitration Award. Specifically, the First Arbitration Award and the Second Arbitration Award could not be enforced until the issues in the Third Arbitration Award were resolved. There was a substantial delay in resolution of the Third Arbitration Award due to a major backlog with the arbitrators. Consequently, Petitioner did not seek enforcement of the Awards until the Third Arbitration Awards were resolved.

15. To date, Respondent has not complied with the Awards and has failed to pay the sums awarded to Petitioner.

16. Respondent has not sought to vacate, modify or challenge the Awards.

17. Petitioner is entitled to confirmation of the Awards and entry of judgment in conformity with the Awards pursuant to 9 U.S.C. 207. *See Phoenix A.G. v. Ecoplas, Inc.*, 391 F.3d 433, 435-436 (2d Cir. 2004).

WHEREFORE, for the reasons stated above, Petitioner, Reynolds Shipping USA LLC seeks an order (1) confirming the Awards against Respondent, Ministry of Trade of the Republic of Iraq, (2) entering judgment in favor of Petitioner against Respondent for the total sum of Awards in the amount of \$809,186.57, which includes interest accrued through January 15, 2013, plus interest which continues to accrue, plus costs awarded in the sum of £10,057, which, at the exchange rate of \$1.6074 US Dollars as of January 15, 2013, is \$16,165.81; (3) awarding Petitioner its attorney fees and costs in bringing this action, and (4) providing Petitioner with such other and further relief as the Court deems proper.

Respectfully submitted,

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